

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ORAL NICHOLAS HILLARY,

Plaintiff,

-against-

ST. LAWRENCE COUNTY, et al.,

Defendants.

DECLARATION

Case No. 17-CV-659 (GLS) (DJS)

ALEXANDER KLEIN, ESQ., an attorney admitted to practice law in the Northern District of New York, declares under penalty of perjury as follows:

1. Attached as Exhibit A is a true and accurate copy of select pages of the September 24, 2020 deposition of defendant Mark Murray.
2. Attached as Exhibit B is a true and accurate copy of the October 24, 2011 Supplemental Investigation Report of Potsdam Police Officer Mark Wentworth.
3. Attached as Exhibit C is a true and accurate copy of select pages of the September 9k 2020 deposition of John Jones.
4. Exhibit D is a true and accurate copy of a statement given on October 28, 2011 by John Jones.
5. Exhibit E is a true and accurate copy of select pages of the July 30, 2020 deposition of the Plaintiff.
6. Exhibit F is a true and accurate copy of a January 23, 2011 complaint filed by Tandy Cyrus against John Jones.
7. Attached as Exhibit G is a true and accurate copy of select pages of the July 10, 2020 deposition of Stacia Lee.

8. Exhibit H is a true and accurate copy of a September 30, 2010 complaint filed by Plaintiff against John Jones.

9. Exhibit I is a true and accurate copy of an Incident Report with the Potsdam Police Department describing an incident on September 30, 2010 in which Plaintiff's car was damaged.

10. Exhibit J is a true and accurate copy of a 2015 article by Adam Waytz, Kelly Marie Hoffman and Sophie Trawalter called *A Superhumanization Bias in Whites' Perception of Blacks* in the journal for Social Psychological and Personality Science, Volume 6(3).

11. Exhibit K is a disc containing a true and accurate copy of video recordings of Cottage Street on October 24, 2011, depicting *inter alia* the home of John Jones (the "Cottage Street" camera).

12. Exhibit L is a disc containing a true and accurate copy of an additional video recording capturing the homes of John Jones, taken on October 24, 2011 (the "Radiology" camera).

13. Exhibit M is a true and accurate copy of select pages of the September 23, 2020 deposition of defendant William Fitzpatrick.

14. Exhibit N is a true and accurate copy of lead sheet 346 in the Potsdam Police Department's investigation into the homicide of Garrett Phillips.

15. Exhibit O is a true and accurate copy of select pages of the October 6, 2020 deposition of Mark Wentworth.

16. Exhibit P is a true and accurate copy of select pages of the September 30, 2020 deposition of Mary Rain.

17. Exhibit Q is a true and accurate copy of select pages of the October 1, 2020 deposition of defendant Timothy Peets.

18. Exhibit R is a true and accurate copy of select pages of the September 25, 2020 deposition of defendant Daniel Manor.

19. Exhibit S is a true and accurate copy of an October 25, 2011 statement given to law enforcement by Ian Fairlie as well as an October 26, 2011 statement given to law enforcement by Ian Fairlie.

20. Exhibit T is a true and accurate copy of select pages of the July 9, 2020 deposition of defendant Ian Fairlie.

21. Exhibit U is a true and accurate copy of select pages of the April 30, 2012 50-H examination of the Plaintiff.

22. Exhibit V is a true and accurate copy of a November 18, 2011 affidavit sworn to by Mark Murray.

23. Exhibits W, X and Y are true and accurate copies of video recordings of Plaintiff on the sidelines of a soccer game the day after Garrett Phillips was murdered.

24. Exhibit Z is a true and accurate copy of the August 26, 2016 decision of the County Court of St. Lawrence County (Hon. Felix J. Catena) in *People v. Oral Nicholas Hillary* addressing purported DNA evidence in the criminal case against the Plaintiff.

25. Exhibit AA is a true and accurate copy of select pages of the July 30, 2020 deposition of the Plaintiff.

26. Exhibits BB and CC are true and accurate copies of still-shots of John Jones (and others) in the office of Mark Murray the day after Garrett Phillips was killed.

27. Exhibit DD is a true and accurate copy of a photograph of Mark Murray giving the Plaintiff a perp-walk in front of the media on May 15, 2014.

28. Exhibit EE is a true and accurate copy of select pages of the April 30, 2012 50-H examination of the Plaintiff.

29. Exhibit FF is a true and accurate copy of lead sheet 201 from the investigation into the homicide of Garrett Phillips.

30. Exhibit GG is a true and accurate copy of an October 26, 2011 handwritten record of Sgt. Bates confirming that John Jones arrived at Incident Command and turned in a key to the residence where Garrett Phillips was murdered.

31. Exhibit HH is a true and accurate copy of lead sheet 37 from the investigation into the homicide of Garrett Phillips.

32. Exhibit II is a true and accurate copy of (one of several) “Garrett Phillips Timeline Chart[s]” maintained by law enforcement in connection with the homicide investigation.

33. Exhibit JJ is a true and accurate copy of lead sheet 86 from the investigation into the homicide of Garrett Phillips.

34. Exhibit KK is a true and accurate copy of the October 16, 2014 decision of the County Court of St. Lawrence County (Hon. Jerome J. Richards) in *People v. Oral Nicholas Hillary* dismissing the first indictment issued against the Plaintiff.

35. Exhibit LL is a true and accurate copy of select pages from the criminal trial of *People v. Oral Nicholas Hillary*, taken from proceedings that took place on September 13, 2016.

36. Exhibit MM is a true and accurate copy of select pages from the criminal trial of *People v. Oral Nicholas Hillary*, also taken from proceedings that took place on September 13, 2016, depicting a portion of the Court’s adjudication that a *Brady* violation had taken place but that it would not dismiss the case on that basis.

37. Exhibit NN is a true and accurate copy of a timeline maintained by William Fitzpatrick, the lead trial attorney for the People in the criminal case against Oral Nicholas Hillary.

Dated: Garden City, New York
January 26, 2021

Respectfully,

**BARKET EPSTEIN KEARON ALDEA
& LOTURCO, LLP**

/s/ Alexander Klein

Alexander Klein, Esq.
666 Old Country Road, Suite 700
Garden City, New York 11530